

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

KAREN KAY PHILLIPS, §
Plaintiff, §
v. § Case No. 6:23-cv-293-JDK-JDL
COUNTY OF SMITH, et al., §
Defendants. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Karen Phillips filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

Before the Court is Defendants County of Smith, Philip Greanead, Johnathan Peters, Riley Rugg, and Larry Smith's motion to dismiss for failure to state a claim. Docket No. 15. On October 18, 2023, Judge Love issued a Report recommending that the Court deny Defendants' motion to dismiss and administratively close this case pending resolution of Plaintiff's state criminal case. Docket No. 21. No objections to the Report have been received.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law.

Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, no party objected in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 21) as the findings of this Court and **DENIES** Defendants' motion to dismiss (Docket No. 15).

It is further **ORDERED** that this case is **ADMINISTRATIVELY CLOSED** pending resolution of Plaintiff's state criminal case, and any pending motion in this case is terminated pending its reopening. The administrative and statistical closing of the lawsuit shall not prejudice the rights of Plaintiff or Defendants to proceed with this cause at such time further proceedings are practicable and appropriate. Defendants, their agents, representatives, and employees are reminded of their obligation to preserve evidence, including electronic data, during the pendency of this suit. Further, the Court **ORDERS** Plaintiff notify this Court of the outcome of her

criminal case and, if appropriate, move to reopen this case within fifteen days after receiving notice that her criminal case has been resolved. Further, the Court **ORDERS** Plaintiff to provide this Court with status updates regarding the progress of her criminal case every ninety days, beginning thirty days from entry of this order. Failure to comply with any requirement of this order may result in dismissal of the case.

So ORDERED and SIGNED this 6th day of November, 2023.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE